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**Subject:** STANDARD RULES AND PROCEDURES FOR THE EMBARGO AND HANDLING OF PROPERTY

**Purpose:**

**General Considerations:** By virtue of the statutes, rules and regulations that ISD is authorized to enforce, ISD is sometimes required to embargo personal property in order to safely abate a nuisance or arrest a danger or injustice to the public health, safety or welfare. On those occasions it is appropriate for ISD personnel to have rules and procedures to follow which provide for the safe embargo and storage of property and its disposition in accordance with the requirements of applicable laws and statutes.

Accordingly, it is the policy of ISD to follow the standard rules and procedures outlined in this Bulletin when the embargo of personal property is determined to be necessary and authorized. This Bulletin shall be followed in all instances where Boston Police do not take custody of property for ISD or in general and the embargo of property by ISD is needed.

Note: For the purpose of clarity and brevity, the pronouns "He" and "His" are used editorially throughout this rule and it should be interpreted as gender neutral. .

**Definitions:**

**Inspectional Services Personnel** - shall include the Code Enforcement Police after July 1, 2002 for the purposes of this bulletin.

**Embargo** - shall include any act by which ISD personnel seize or take control of any personal property in the possession of another, including seizures executed under a valid warrant, under ISD's legal authority to protect the public health, safety and welfare.

**Property** - shall refer only to personal property embargoed by ISD personnel. For standard rules and procedures for the embargo and handling of real property by ISD personnel refer to Commissioner's Bulletin 2001-8.

**Crime Scene** - shall be defined for the purposes of this Bulletin only as any premises at which it reasonably appears that a serious crime such as homicide, burglary or any other crime where the need for preserving integrity of the premises is essential for the purposes of investigation.

**Criminal Evidence** - any item or paraphernalia that is potentially illegal or relevant to an investigation by Boston Police or other law enforcement, including but not limited to guns, weapons, ammunition, needles, drugs, or substantial amounts of human blood.

**STANDARD RULES AND PROCEDURES FOR THE EMBARGO OF PROPERTY**

**§ 1. Authorization for Embargo:** When Boston Police do not take custody of property, ISD personnel may embargo property only when legally authorized do so by the city, state or federal laws and regulations from which ISD derives its authority to act. A manager at least of the level of an assistant commissioner must authorize all embargoes unless time will not allow for personnel on-scene to gain such approval because the property may be otherwise destroyed, lost, moved or present an immediate danger to the life or limb of personnel or the general public. The Director of Code Enforcement will be an assistant commissioner for the purposes of this Bulletin.

**§ 2. Recording the Embargo of Property:** ISD personnel shall assume embargoed property will be used as real evidence in legal proceedings requiring all due care and a secured chain of custody. When an embargo is authorized, the ISD personnel embargoing the property shall prepare a report on-scene with ISD Form 02-15 to record the information surrounding the embargo. The report should contain:

- A. Date, time and location of the embargo, names of persons involved with the embargo, legal basis and reasons for embargo and the authorizing manager.
- B. A listing of all items embargoed and described sufficiently enough to allow for the identification of the property or to prove the property presented is the actual item embargoed in legal proceedings. Details such as quantity, quality, color, shape or other objective factors conspicuous and relevant for identifying the property should be included.
- C. Time, Date of transport from the embargo scene and persons transporting to ISD custodial facility and location of the custodial facility.
- D. The property owner's name, contact information and the type of documentation showing proof of ownership and identity. If owner or owner's agent is not on-scene, then ISD personnel shall collect contact information from the person in possession of the property. If no information is available or persons refuse to provide information about ownership or possession on-scene, then this fact must be documented and reasonable steps taken to find the owner. ISD personnel shall take reasonable steps on-scene to verify the accuracy of the person's identity or contact information either through photo identification or other reasonable means.
- E. Any information not mentioned here that a reasonable person carrying out the duties in which the embargo is legally authorized would include that. Any damage to property between transport and check in to ISD custodial facility should also be documented.

ISD personnel, when possible, should photograph the scene and property at time of embargo. All embargo reports (Form 02-15) shall be kept as public records of the embargo by the embargoing division at ISD and the Keeper of Records.

ISD personnel should take reasonable steps to have the report signed by the owner, agent of the owner, or the person in possession of the property at the time of embargo. If the person refuses or is unavailable at the scene, the inspector should obtain a signature from another person on-scene, preferably a disinterested person such as a police, fire or other city official, on scene attesting to the accuracy of the facts stated in the report.

**§ 3. Notice of embargo to owner:** The owner, the owner's agent, or person in possession of the property shall be given, as notice of the embargo, a copy of Form 02-15 on-scene or within a reasonable time, but not more than 48 hours after the embargo. The party claiming an interest, if known, shall also be informed that the rights and obligations of any person claiming ownership are on the reverse side of the form. Notice, when not on scene, may be served in-hand, posted at the current or last known address of the party claiming an interest or sent by certified or registered mail. The keeper of records shall be charged with ensuring proper notice is sent to party providing contact information on Form 02-15 at all points where notice is required.

Notice shall inform the on Form 02-15 of the right to a hearing, the need to prove ownership and pay all costs incidental to the embargo before release of the property from ISD control and that failure to claim the property within 60 days after the embargo date shall result in the property being classified as abandoned property. The person on scene claiming an interest in the property shall be considered as to have waived notice if the party provides ISD personnel with false or inaccurate identity and contact information. ISD personnel shall inform the person of this rule when filing out Form 02-15. If more than one party provides information and the information for at least one person is accurate then the waiver shall not apply.

**§ 4. Custody of Embargoed Property:** Once property has been properly identified, Form 02-15 completed, and the property marked for identification, ISD personnel shall be responsible for getting the property to an authorized custodial facility for ISD. There shall be a secure property room or another authorized area for custodial purposes of embargoed property. ISD personnel shall ensure the chain of

custody for all embargoed property from the moment of embargo to disposition. Any property embargoed as evidence for any criminal proceeding not within the jurisdiction of ISD shall be released on scene to the custody of the Boston Police. ISD shall treat such evidence with the utmost care consistent with this bulletin until such evidence is released into the custody of Boston Police. For procedures for handling illegal paraphernalia or criminal evidence see § 10 of this bulletin.

**§ 5. ISD Property Record:** ISD shall maintain a Property/Evidence Record for the purposes of establishing a chain of custody for embargoed property and maintaining an accurate inventory for eventual return to the rightful owner. The Record shall log all instances in which property has been embargoed by ISD. Each entry to the Record shall document the type of property, time and date of embargo, personnel embargoing, date of notice to the property owner, and the property storage location. The Keeper of Records for ISD shall be charged with ensuring the Property/Evidence Record is sufficiently maintained. The Record shall also contain all completed Form 02-15s pursuant to §3 of this Commissioner's Bulletin. No person, including any City of Boston or ISD personnel, shall access the property room established in § 8 of this Commissioner's Bulletin without first noting such access, the date and reason in the Record along with any persons accompanying the personnel during the time of access to the property and signature of personnel accessing property. If the personnel accessing the property need to remove the property from its place of storage before disposition, this shall be noted in the Record before removal. The entry should include the person removing, the reason for removal, the expected date of return and signature of removing personnel. Only the Keeper of Records or her designee shall make entries in the Record for recording the embargo, disposition of or access to embargoed property in ISD custody. The Record shall also provide a place for the owner of embargo to sign as acknowledgement of receipt of the embargoed property after complying with the requirements outlined in §6 of this Bulletin.

**§ 6. Release of Embargoed property:** No property in the custody and control of the Inspectional Services Department shall be released without a satisfactory showing of rightful ownership by the party claiming such. A party proving ownership to the satisfaction of the Inspectional Services Department must sign a receipt for return of the goods and pay all costs owed the City of Boston associated with the embargo before the property can be released.

Where ownership is doubtful, no property shall be released until the Deputy Commissioner for Administration and Finance or his designee has reviewed the issue of ownership and directed or denied release of the property.

Unless the property is needed for pending legal proceedings, embargoed property shall be deemed abandoned 60 days after the embargo date if the owner is unknown, the person in possession of the property at the time of embargo cannot produce proof of ownership, or any party fails to come forward and meet the requirements of this section for disposition to the owner. If a party proves rightful ownership but cannot meet the costs associated with the embargo, ISD shall not classify the property as abandoned for an additional 60 days. Once property has been classified as abandoned the Keeper of Records shall send notice to the person provided as the contact informing them that the property has been classified as abandoned property. Failure to respond to a notice that property is being classified by ISD as abandoned within 30 days of sending such notice, the property shall be subject to police auction after public notice.

**§ 7. ISD Property Room:** ISD shall have a secure property room located at 1010 Massachusetts Avenue accessible only by the Keeper of Records or personnel who have been properly entered into the Record as outlined in §5 to ensure a proper chain of custody and inventory. The property room shall be locked at all times. There shall be an off site location for the storage of larger items embargoed by ISD. The keeper of Records shall be responsible for maintaining the Record for showing the secure chain of custody and accurate inventory of property at both locations.

**§8. Accounting of Property in the Record:** The Keeper of the Records shall once a month provide to the Deputy Commissioner of Administration and Finance an accounting of all property in the control and custody of the Inspectional Services Department as a result of a lawful embargo. The Deputy Commissioner of Administration and Finance shall provide the Keeper of Records with the resources necessary for the proper implementation of this Bulletin to store, record and dispose of all embargoed property. Resources may include ISD entering into agreements with other city of Boston Departments for proper care and custody of property. The Deputy Commissioner of Administration and Finance or his designee may inspect at any time the condition of such property and the manner in which it is being stored.

**(SAMPLE)**

**FORM 02-15 Embargoed Property Report**

ATTN: Rights of person claiming ownership are on reverse side of this form

**1. Property embargoed and description:**

(type, quantity, appearance, distinguishing features and other relevant information)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Pictures? Y / N

**2. Date:** \_\_\_\_\_ **Time:** \_\_\_\_:\_\_\_\_ **Location** \_\_\_\_\_

**Basis for embargo:** \_\_\_\_\_  
\_\_\_\_\_

**Authorizing Manager:** \_\_\_\_\_ **Persons present:** \_\_\_\_\_  
(ISD personnel, other govt. agencies, owner )

**3. The property was taken from:** a. Owner/ agent      b. Person in possession      c. No one

**Contact information:** (If 'a' or 'b' above refuses to disclose - document on 'name' line)

**Name:** \_\_\_\_\_  
(first) (m.i.) (last)

**Address:** \_\_\_\_\_  
(number and street) (city/town) (state) (zip code)

**DOB:** / / **Driver's Lic.:** - - **Phone:** \_\_\_\_\_

**Contact Information verified:** Y / N **I.D. used to verify:** \_\_\_\_\_

**4. Transport of property:**

(ISD custodial facility, date, time and persons transporting. NOTE: record any damage to property during transport)

**5. Employee responsible for this embargo and embargo report:**

\_\_\_\_\_  
*ISD employee (print name)* (sign name) (Date)  
**Signature verifying the information in this report. (Did the person in section 3 above refuse to sign?) Y N**  
\_\_\_\_\_  
(print name: owner \_\_\_\_\_ possessor \_\_\_\_\_ other \_\_\_\_\_ ) (sign name) (Date)